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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/612,314	07/07/2000	Richard Anthony Godwin Smith	088362/0114	8725

26633 7590 04/29/2003

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EXAMINER

SAUNDERS, DAVID A

ART UNIT	PAPER NUMBER
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1644

20

DATE MAILED: 04/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

612,314

Applicant(s)

SMITH et al

Examiner

SAUNDERS

Group Art Unit

1644

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 2/5/03
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 53-106 is/are pending in the application.
- ☐ Of the above claim(s) is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☒ Claim(s) 53-106 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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The amendment of 2/5/03 has been entered; claims 53-66 are pending and under examination. The sequence ID listing filed with the amendment has been entered.

Claims 53-66 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 53 and 60, part C) of each, "the therapeutic agent" lacks antecedent basis.

Claims 57 and 64 are each unclear by reciting "dissociation constant" because it is not clear what each of the elements binds to and dissociates from in order to measure a "dissociation constant".

Claims 59 and 66 are unclear by reciting "a dissociation constant affinity". Is applicant reciting a dissociation constant or an affinity constant?

Claims 58 and 65 are objected to because of the following informalities: In claims 58 and 65, line 2 of each the first recitation of "a" is surplusage. Appropriate correction is required.

Claims 53-66 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 53 and 60 contain new matter.

In claims 53 and 60, part a) of each the term "aliphatic acyl groups" is overly broad in relation to what was originally disclosed. Where the examiner finds this term (page 6, line 6 and

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claim 9, line 2) it is always recited with the further stipulation that it has "about 8 to 18 methylene units."

In claims 53 and 60 part b) of each, a "peptide binding element comprising at least one basic amino acid" has not been originally disclosed. The examiner considers the description of what applicant is claiming as commencing at page 6, line 10. Therein applicant refers to "a cluster of basic amino acids" (line 2), not to "at least one basic amino acid". In like manner claims 54-55 and 61-62 ^{fail to} recite that the arginine or lysine residues are clustered.

The Smith declaration of 2/5/03 has been noted but not considered because it has not addressed any rejection of record.

Pat 5,847,082 is cited as of interest for showing complement inhibiting proteins.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

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will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Saunders, Ph.D., whose telephone number is (703) 308-3976. The examiner can normally be reached on Monday-Thursday from 8:00 a.m. to 5:30 p.m. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan, can be reached on (703) 308-3973. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

D. Saunders:jmr

April 22, 2003

David A. Saunders
DAVID SAUNDERS
PRIMARY EXAMINER
ART UNIT 182-1644